

1 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 5:070. Provisions of the KPDES permit.

6 RELATES TO: KRS 224.01-010, 224.01-070, 224.01-400, [224.10-100, 224.16-050,]  
7 224.70-100, 224.70-120, 224.99-010, 33 U.S.C. 1251 et seq., 40 C.F.R. Section 403 [224.70-  
8 110]

9 STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-110, 33 U.S.C.  
10 1342, 33 U.S.C. 1251 et seq., 40 C.F.R. Section 403

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.16-050(1) provides that the  
12 Natural Resources and Environmental Protection Cabinet may issue federal permits pursuant to  
13 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act, [§33 U.S.C. Section 1251  
14 et seq.}] subject to the conditions imposed in 33 U.S.C. Sections 1342(b) and (d). KRS 224.16-  
15 050(1) requires that any exemptions granted in the issuance of NPDES permits shall be pursuant  
16 to 33 U.S.C. Sections 1311, 1312, and 1326(a). Further, KRS 224.16-050(4) requires that the  
17 cabinet shall not impose under any permit issued pursuant to this section any effluent limitation,  
18 monitoring requirement or other condition which is more stringent than the effluent limitation,  
19 monitoring requirement or other condition which would have been applicable under the federal  
20 regulation if the permit were issued by the federal government. This administrative regulation  
21 contains the basis for provisions, terms, and effect of a KPDES permit, including permit

1 duration, schedule of compliance, and basis for permit modification or revocation and  
2 reissuance.

3       Section 1.     Duration of Permits. (1) KPDES permits shall be effective for a fixed  
4 term not to exceed five (5) years. Except as provided in 401 KAR 5:060, Section 1(5)(c), the  
5 term of a permit shall not be extended by modification beyond this maximum duration. The  
6 cabinet may issue a permit for a duration that is less than the full five (5) year term.

7       (2)     A permit may be issued for the full term if the permit includes effluent limitations  
8 and a compliance schedule to meet the requirements of 401 KAR 5:080, Section 1(2) whether or  
9 not applicable federal effluent limitations guidelines have been promulgated or approved.

10      Section 2.     Schedules of Compliance. (1) The permit may, when appropriate, specify  
11 a schedule of compliance leading to compliance with KRS Chapter 224 and administrative  
12 regulations promulgated pursuant thereto.

13      (a)     Time for compliance. Any schedules of compliance under this section shall  
14 require compliance as soon as possible. In addition, schedules of compliance shall require  
15 compliance not later than the applicable deadline specified in 401 KAR 5:080.

16      (b)     The first KPDES permit issued to a new source or a new discharger shall contain  
17 a schedule of compliance only when necessary to allow a reasonable opportunity to attain  
18 compliance with requirements issued or revised after commencement of construction but less  
19 than three (3) years before commencement of the relevant discharge. For recommencing  
20 dischargers, a schedule of compliance shall be available only when necessary to allow a  
21 reasonable opportunity to attain compliance with requirements issued or revised less than three  
22 (3) years before recommencement of discharge.

23      (c)     Interim dates. Except as provided in subsection (2)(a)2 of this section, if a permit

1 establishes a schedule of compliance which exceeds one (1) year from the date of permit  
2 issuance, the schedule shall set forth interim requirements and the dates for their achievement.

3 1. The time between interim dates shall not exceed one (1) year.

4 2. If the time necessary for completion of any interim requirement, such as the  
5 construction of a control facility, is more than one (1) year and is not readily divisible into stages  
6 for completion, the permit shall specify interim dates for the submission of reports of progress  
7 toward completion of the interim requirements and indicate a projected completion date.

8 (d) Reporting. The permit shall be written to require that no later than fourteen (14)  
9 days following each interim date and the final date of compliance, the permittee shall notify the  
10 cabinet in writing of its compliance or noncompliance with the interim or final requirements, or  
11 submit progress reports.

12 (2) Alternative schedules of compliance. A KPDES permit applicant or permittee  
13 may cease conducting regulated activities, by termination of direct discharge for KPDES  
14 sources, rather than continue to operate and meet permit requirements as follows:

15 (a) If the permittee decides to cease conducting regulated activities at a given time  
16 within the term of a permit which has already been issued:

17 1. The permit may be modified to contain a new or additional schedule leading to  
18 timely cessation of activities; or

19 2. The permittee shall cease conducting permitted activities before noncompliance  
20 with any interim or final compliance schedule requirement already specified in the permit.

21 (b) If the decision to cease conducting regulated activities is made before issuance of  
22 a permit whose term will include the termination date, the permit shall contain a schedule leading  
23 to termination which shall ensure timely compliance no later than the statutory deadline.

1 (c) If the permittee is undecided whether to cease conducting regulated activities, the  
2 cabinet shall issue or modify a permit to contain two (2) schedules as follows:

3 1. Both schedules shall contain an identical interim deadline requiring a final  
4 decision on whether to cease conducting regulated activities no later than a date which ensures  
5 sufficient time to comply with applicable requirements in a timely manner if the decision is to  
6 continue conducting regulated activities;

7 2. One (1) schedule shall lead to timely compliance no later than the deadline  
8 contained in 401 KAR 5:080;

9 3. The second schedule shall lead to cessation of regulated activities by a date which  
10 shall ensure timely compliance no later than the deadline specified in 401 KAR 5:080; and

11 4. Each permit containing two (2) schedules shall include a requirement that after  
12 the permittee has made a final decision under subparagraph 1 of this paragraph it shall follow the  
13 schedule leading to compliance if the decision is to continue conducting regulated activities, and  
14 follow the schedule leading to termination if the decision is to cease conducting regulated  
15 activities.

16 (d) The applicant's or permittee's decision to cease conducting regulated activities  
17 shall be evidenced by a firm public commitment satisfactory to the cabinet, such as a resolution  
18 of the board of directors of a corporation.

19 Section 3. Requirements for Recording and Reporting of Monitoring Results. All  
20 permits shall specify:

21 (1) Requirements concerning the proper use, maintenance, and installation, when  
22 appropriate, of monitoring equipment or methods, including biological monitoring methods  
23 when appropriate;

1           (2)     Required monitoring including type, intervals, and frequency sufficient to yield  
2 data which are representative of the monitored activity including, when appropriate, continuous  
3 monitoring; and

4           (3)     Applicable reporting requirements based upon the impact of the regulated activity  
5 and as specified in 401 KAR 5:065, Sections 1 and 2. Reporting shall be no less frequent than  
6 specified in Section 2 of this administrative regulation.

7           Section 4.     Effect of a Permit.   (1) Except for any toxic effluent standards and  
8 prohibitions included in 401 KAR 5:065, Section 1(1)(b), compliance with a KPDES permit  
9 during its term constitutes compliance, for purposes of enforcement, with the KPDES program.  
10 However, a permit may be modified, revoked and reissued, or revoked during its term for cause  
11 as set forth in Sections 6 and 7 of this administrative regulation.

12          (2)     The issuance of a permit does not convey any property rights of any sort, or any  
13 exclusive privilege.

14          (3)     The issuance of a permit does not authorize any injury to persons or property or  
15 invasion of other private rights, or any infringement of state or local law or administrative  
16 regulations.

17          Section 5.     Transfer of Permits.   (1) Transfers by modification. Except as provided in  
18 subsection (2) of this section, a permit may be transferred by the permittee to a new owner or  
19 operator only if the permit has been modified or revoked and reissued, under Section 6 of this  
20 administrative regulation, or if a minor modification has been made to identify the new permittee  
21 and incorporate such other requirements as may be necessary under the KPDES administrative  
22 regulations.

23          (2)     Automatic transfers. As an alternative to transfers under subsection (1) of this

1 section, any KPDES permit may be automatically transferred to a new permittee if:

2 (a) The current permittee notifies the cabinet at least thirty (30) days in advance of  
3 the proposed transfer date in paragraph (b) of this subsection;

4 (b) The notice includes a written agreement between the existing and new permittees  
5 containing a specific date for transfer of permit responsibility, coverage, and liability between  
6 them; and

7 (c) The cabinet does not notify the existing permittee and the proposed new permittee  
8 of an intent to modify or revoke and reissue the permit. A modification under this paragraph may  
9 also be a minor modification under Section 6(3) of this administrative regulation. If this notice is  
10 not received, the transfer is effective on the date specified in the agreement mentioned in  
11 paragraph (b) of this subsection.

12 Section 6. Modification or Revocation and Reissuance of Permit. When the cabinet  
13 receives any information, the cabinet may determine whether or not one (1) or more of the  
14 causes, listed in subsections (1) and (2) of this section for modification or revocation and  
15 reissuance or both, exist. If cause exists, the cabinet may modify or revoke and reissue the  
16 permit accordingly, and may request an updated application if necessary. When a permit is  
17 modified, only the conditions subject to modification are reopened. If a permit is revoked and  
18 reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new  
19 term. If cause does not exist under this section, the cabinet shall not modify or revoke and  
20 reissue the permit. If a permit modification satisfies the criteria in subsection (3) of this section  
21 for "minor modifications" the permit may be modified without a draft permit or public review.  
22 Otherwise, a draft permit shall be prepared and other procedures in 401 KAR 5:075 shall be  
23 followed.

1           (1)     Causes for modification. The following are causes for modification but not  
2     revocation and reissuance of permits unless the permittee agrees to revocation and reissuance as  
3     well as modification of a permit.

4           (a)     Alterations. If there are material and substantial alterations or additions made to  
5     the permitted facility or activity which occurred after permit issuance, the alterations may justify  
6     the application of permit conditions that are different or absent in the existing permit.

7           (b)     Information. If the cabinet has received information, cause may exist for  
8     modification. KPDES permits may be modified during their terms for this cause only if the  
9     information was not available at the time of permit issuance, except for revised administrative  
10    regulations, guidance, or test methods which would have justified application of different  
11    conditions at the time of permit issuance. In addition, the applicant shall show that the  
12    information would have justified the application of different permit conditions at the time of  
13    issuance. For KPDES general permits this cause shall include any information indicating that  
14    cumulative effects on the environment are unacceptable.

15          (c)     New administrative regulations. If the standards or administrative regulations on  
16    which the permit was based have been changed by promulgation of amended standards or  
17    administrative regulations or by judicial decision after the permit was issued, then cause may  
18    exist for modification. However, the permit shall be modified only as follows:

19          1.     For promulgation of amended standards or administrative regulations, when:

20          a.     The permit condition requested to be modified was based on a promulgated  
21    effluent limitation guideline, EPA approved or promulgated water quality standards of 401 KAR  
22    5:031, or the secondary treatment administrative regulations of 401 KAR 5:045;

23          b.     EPA has revised, withdrawn, or modified that portion of the federal regulation or

1 effluent limitation guideline or has approved a cabinet action with regard to a water quality  
2 standard on which the permit condition was based; and

3 c. A permittee requests modification in accordance with 401 KAR 5:075, Section 2,  
4 within ninety (90) days after the amendment, revision, or withdrawal is promulgated.

5 2. For judicial decisions, a court of competent jurisdiction has remanded and stayed  
6 EPA promulgated effluent limitation guidelines, if the remand and stay concern that portion of  
7 the guidelines on which the permit condition was based and a request is filed by the permittee in  
8 accordance with 401 KAR 5:075, Section 2, within ninety (90) days of judicial remand.

9 (d) Compliance schedules. A permit may be modified if the cabinet determines good  
10 cause exists for modification of a compliance schedule, based on an act of God, strike, flood,  
11 materials shortage, or other events over which the permittee has little or no control and for which  
12 there is no reasonably available remedy. However, a KPDES compliance schedule shall not be  
13 modified to extend beyond an applicable statutory deadline in 401 KAR 5:080.

14 (e) For a small municipal separate storm sewer system (MS4), to include an effluent  
15 limitation requiring implementation of minimum control measures as specified in 401 KAR  
16 5:060, Section 12(9)(b) when:

17 1. The permit does not include these measures based upon the determination that  
18 another entity was responsible for implementation of the requirements; and

19 2. The other entity fails to implement measures that satisfy the requirements.

20 (f) In addition, the cabinet may modify a permit:

21 1. When the permittee has filed a request for any variance under 401 KAR 5:055,  
22 Section 7, or 401 KAR 5:080, Section 3, and the cabinet processes the request under the  
23 applicable provisions.

2. When required to incorporate applicable toxic effluent standard or prohibition under 401 KAR 5:065, Section 2(2).

3. When required by the "reopener" conditions in a permit, which are established in the permit under 401 KAR 5:065, Section 2(3), for toxic effluent limitations, or 401 KAR 5:065, Section 2 (40 C.F.R. Section 403.10(e), pretreatment program).

4. Upon request of a permittee who qualifies for a change in effluent limitations based on pollutants in intake water under 401 KAR 5:065, Section 3(7).

5. When a discharger is no longer eligible for net limitations, as provided in 401 KAR 5:065, Section 3(7).

6. As necessary under EPA effluent limitations guidelines concerning compliance schedule for development of a pretreatment program.

7. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 401 KAR 5:080, Section 1(2)(c).

8. When the permittee begins or expects to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit application under 401 KAR 5:060, Section 2.

9. To establish a "notification level" as provided in 401 KAR 5:065, Section 2(6).

10. To modify a schedule of compliance to reflect the time lost during the construction of an innovative or alternative facility, in the case of the POTW which has received a grant under CWA Section 202(a)(3), [§33 U.S.C. Section 1282(a)(3)] for 100 percent of the cost to modify or replace facilities constructed with a grant for innovative or alternative wastewater technology under CWA Section 202(a)(2), [§33 U.S.C. Section 1282(a)(2)]. In no

1 case shall the compliance schedule be modified to extend beyond an applicable statutory  
2 deadline for compliance indicated in 401 KAR 5:080.

3 11. Upon failure of the cabinet to notify an affected state whose waters may be  
4 affected by a discharge from Kentucky.

5 12. When the permit becomes final and effective on or after August 19, 1981, if the  
6 permittee shows a good cause for the modification, to conform to changes respecting the  
7 following administrative regulation: 401 KAR 5:065, Section 1(3) and (4).

8 13. To correct technical mistakes, such as errors in calculation, or mistaken  
9 interpretations of law made in determining permit conditions.

10 14. When the discharger has installed the treatment technology considered by the  
11 cabinet in setting effluent limitations imposed under 401 KAR 5:080, Section 1 and CWA  
12 Section 402(a)(1), [§33 U.S.C. Section 1342(a)(1)] and has properly operated and maintained  
13 the facilities but nevertheless has been unable to achieve those effluent limitations. In this case,  
14 the limitations in the modified permit may reflect the level of pollutant control actually achieved  
15 (but shall not be less stringent than required by a subsequently promulgated effluent limitations  
16 guideline).

17 15. When the permit becomes final and effective on or after March 9, 1982, and the  
18 permittee applies for the modification no later than January 24, 1985, if the permittee shows  
19 good cause in its request and that it qualifies for the modification, to conform to changes  
20 respecting the following administrative regulations: 401 KAR 5:055, Section 6(2) and 401 KAR  
21 5:065, Section 3(2) and (3).

22 (2) Causes for modification or revocation and reissuance. The following are causes  
23 to modify or, alternatively revoke and reissue a permit:

1           (a)     Cause exists for revocation under Section 7 of this administrative regulation and  
2 the cabinet determines that modification or revocation and reissuance is appropriate.

3           (b)     The cabinet has received notification of a proposed transfer of the permit. A  
4 permit also may be modified to reflect a transfer after the effective date of an automatic transfer  
5 but shall not be revoked and reissued after the effective date of the transfer except upon the  
6 request of the new permittee.

7           (3)     Minor modifications of permits. Upon the consent of the permittee, the cabinet  
8 shall modify a permit to make the corrections or allowances for changes in the permitted activity  
9 listed in this section, without following the procedures of 401 KAR 5:075. Any permit  
10 modification not processed as a minor modification under this section shall be made for cause  
11 and with a 401 KAR 5:075 draft permit and public notice as required under this section. Minor  
12 modifications may only:

13           (a)     Correct typographical errors;

14           (b)     Require more frequent monitoring or reporting by the permittee;

15           (c)     Change an interim compliance date in a schedule of compliance, provided the  
16 new date is not more than 120 days after the date specified in the existing permit and does not  
17 interfere with attainment of the final compliance date requirements;

18           (d)     Allow for a change in ownership or operational control of a facility where the  
19 cabinet determines that no other change in the permit is necessary, if a written agreement  
20 containing a specific date for transfer of permit responsibility, coverage, and liability between  
21 the current and new permittees has been submitted to the cabinet;

22           (e)     Change the construction schedule for a discharger which is a new source;

23           (f)     Delete a point source outfall when the discharge from that outfall is terminated

1 and does not result in discharge of pollutants from other outfalls except in accordance with  
2 permit limits; or

3 (g) Incorporate conditions of a POTW pretreatment program that has been approved  
4 in accordance with the procedures in 401 KAR 5:057 or a modification thereto that has been  
5 approved in accordance with the procedures in 401 KAR 5:057 as enforceable conditions of the  
6 POTW's permits.

7 Section 7. Revocation of Permit. (1) The following are causes for revoking a permit  
8 during its term, or for denying a renewal application:

9 (a) Noncompliance by the permittee with any condition of the permit;

10 (b) The permittee's failure in the application or during the permit issuance process to  
11 disclose fully all relevant facts, or the permittee's misrepresentation of any relevant fact at any  
12 time; or

13 (c) A determination that the permitted activity endangers human health or the  
14 environment and can only be regulated to acceptable levels by permit modification or revocation.

15 (2) KPDES permits may be modified or revoked when there is a change in any  
16 condition that requires either a temporary or a permanent reduction or elimination of any  
17 discharge controlled by the permit for example, plant closure or termination of discharge by  
18 connection to a POTW.

19 (3) The cabinet shall follow the applicable procedures in [of] 401 KAR 5:075 in  
20 revoking any [a] KPDES permit under this section, except that if the entire discharge is  
21 permanently terminated by elimination of the flow or by connection to a POTW, but not by land  
22 application or disposal into a well, the cabinet may revoke the permit by notice to the permittee.  
23 Revocation by notice shall be effective thirty (30) days after notice is sent, unless the permittee

1 objects within that time. If the permittee objects during that period, the cabinet shall follow 401  
2 KAR 5:075, Section 2 revocation procedures. Expedited permit revocation procedures are not  
3 available to permittees that are subject to pending enforcement actions including citizen suits  
4 brought under KRS Chapter 224. If requesting expedited permit revocation procedures, a  
5 permittee shall certify that it is not subject to any pending enforcement actions including citizen  
6 suits brought under KRS Chapter 224.

7 Section 8. Federal Regulation Adopted Without Change. The following federal  
8 regulation governs the subject matter of this administrative regulation and is hereby adopted  
9 without change. 40 C.F.R. Section 403.10(e), "State Pretreatment Program in Lieu of POTW  
10 Program," revised as of July 1, 2001. The federal regulation is available for inspection and  
11 copying, subject to copyright laws, during normal business hours of 8:00 a.m. to 4:30 p.m.,  
12 excluding state holidays, at the Division of Water, 14 Reilly Road, Frankfort, Kentucky. Copies  
13 are also available from the Superintendent of Documents, U.S. Government Printing Office,  
14 Washington, D.C. 20402.

401 KAR 5:070 Approved for promulgation:

---

James E. Bickford, Secretary  
Natural Resources and Environmental  
Protection Cabinet

---

Date

**PUBLIC HEARING:** A public hearing on this administrative regulation is scheduled for October 22, 2002, 1:30 p.m. in the Franklin County Extension Office, 101 Lakeview Court, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by October 15, 2002, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the administrative regulation. A transcript of the hearing will not be provided unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the administrative regulation. Send written notification of your intent to be heard at the hearing, or your written comments on the administrative regulation, to the contact person listed below. Written comments must be received before adjournment of the hearing, or by close of business on October 15, 2002 if the hearing is not held. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

**CONTACT PERSON:** Jeffrey W. Pratt, Director  
Division of Water  
Department for Environmental Protection  
14 Reilly Road, Frankfort, Kentucky 40601  
Telephone: (502) 564-3410 Fax: (502) 564-0111

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Administrative Regulation #:** 401 KAR 5:070 - Provisions of the KPDES Permit  
**Contact person:** Jeffrey W. Pratt, Director  
Division of Water

- (1) **Provide a brief summary of:**
  - (a) **What this administrative regulation does:** This administrative regulation establishes routine provisions for all KPDES permits.
  - (b) **The necessity of this administrative regulation:** This administrative regulation was needed because all NPDES delegated states must have compatible state regulations.
  - (c) **How this administrative regulation conforms to the content of the authorizing statutes:** This administrative regulation contains routine provisions for KPDES permits. The impact of the KPDES permit program helps to implement the pollution prevention goals of KRS Chapter 224.
  - (d) **How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation contains routine KPDES permit provisions. KPDES permits control the introduction of pollutants into waters of the Commonwealth. This is consistent with the goals of KRS Chapter 224.
- (2) **If this is an amendment to an existing administrative regulation, provide a brief summary of:**
  - (a) **How the amendment will change this administrative regulation:** This amendment will correct and update the regulation to make it compatible with the corresponding federal regulation.
  - (b) **The necessity of the amendment to this administrative regulation:** If this administrative regulation is not amended as proposed the state regulation will continue to be incompatible with the corresponding federal regulation.
  - (c) **How the amendment conforms to the content of the authorizing statutes:** The amended regulation still provides for water pollution control as authorized under KRS Chapter 224.
  - (d) **How the amendment will assist in the effective administration of the statutes:** The corrected and updated regulation will be compatible with the corresponding federal regulation which will aid in carrying out the goals of KRS Chapter 224.
- (3) **List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:** This administrative regulation will apply to over 10,000 permitted entities which may be individuals, businesses or state/local governmental organizations.
- (4) **Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:** The impact of this administrative regulation amendment will be non-existent because the new requirements went into effect when the corresponding federal regulation was adopted.

- (5) **Provide an estimate of how much it will cost to implement this administrative regulation:**  
(a) **Initially:** The first year, the Cabinet will incur no additional costs.  
(b) **On a continuing basis:** There will be no additional costs attributable to this amended administrative regulation.
- (6) **What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** There will be no change in the funding sources due to this amended administrative regulation.
- (7) **Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:** No increase in fees or funding will be necessary to implement this amended administrative regulation.
- (8) **State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:** This administrative regulation amendment does not establish or directly or indirectly increase any fees.
- (9) **TIERING: Is tiering applied?** Yes.  
(**Explain why tiering was or was not used**) To the extent that the corresponding federal regulation provided for tiering, these amendments are tiered. Permit requirements are adjusted to reflect the nature or size of the wastewater discharge.

## FEDERAL MANDATE ANALYSIS COMPARISON

**Administrative Regulation #:** 401 KAR 5:070

**Contact person:** Jeffrey W. Pratt

1. **Federal statute or regulation constituting the federal mandate.** There is no federal mandate to obtain delegation of the federal NPDES permit program.
2. **State compliance standards.** This regulation amendment establishes state standards that are the same as the corresponding federal standards.
3. **Minimum or uniform standards contained in the federal mandate.** There is no federal mandate.
4. **Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate?** No, this regulation amendment does not establish any requirements stricter than that established by the corresponding federal regulation.
5. **Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.** No stricter standards are being proposed.

## FISCAL NOTE ON LOCAL GOVERNMENT

**Administrative Regulation #:** 401 KAR 5:070

**Contact person:** Jeffrey W. Pratt

New \_\_\_\_\_

Amendment: \_\_\_\_\_ X \_\_\_\_\_

1. **Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government?**

Yes \_\_\_\_\_ X \_\_\_\_\_

No \_\_\_\_\_

2. **State what unit, part or division of local government this administrative regulation will affect.** This administrative regulation amendment will affect city, county, or other municipal governments, including special districts, sanitation districts, etc.

3. **State the aspect or service of local government to which this administrative regulation relates.** This administrative regulation amendment relates to those entities that operate facilities that discharge into waters of the Commonwealth.

4. **Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.** None; since this regulation amendment merely provides for compatibility with the corresponding federal regulation which has already gone into effect.

**Revenues (+/-):** None

**Expenditures (+/-):** None

**Other Explanation:** None

**SUMMARY OF FEDERAL REGULATIONS  
ADOPTED WITHOUT CHANGE  
IN 401 KAR 5:070**

- (1) 40 C.F.R. 403.10(e), “State Pretreatment Program in Lieu of POTW Program,” U.S. EPA, as of July 1, 2001.
  - (a) This federal regulation allows for the use of pretreatment requirements in state permits in lieu of POTW pretreatment programs.
  - (b) 401 KAR 5:070, Section 6(1)(f) provides for this pretreatment substitution as a cause for modification of KPDES permits.
  - (c) This document is 1 page.

The total number of pages adopted without change is 1 page.